

The opinion in support of the decision being
entered today is not binding precedent of the Board.

Paper ~~242~~ ⁴

Filed by: Trial Section Merits Panel
Box Interference
Washington, D.C. 20231
Tel: 703-308-9797
Fax: 703-305-0942

Filed: May 22, 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

YUNG-CHI CHENG,

Junior Party,
(Application 08/463,960)

v.

BERNARD BELLEAU, Deceased,
by PIERRETTE BELLEAU and NGHE NGUYEN-BA,

Senior Party,
(Patent 5,532,246 and Reissue Application 09/585,431)

Patent Interference No. 104,396

FAXED

MAY 22 2002

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Before: GARDNER-LANE, MEDLEY and TIERNEY, Administrative Patent Judges.

TIERNEY, Administrative Patent Judge.

ORDER AND JUDGMENT

The parties have filed a Joint Statement on Claim Correspondence Following Final Judgment. (Paper No. 241). In the Joint Statement, the parties have agreed that Cheng claims 170-172 should depend from claim 225, as opposed to canceled claim 224. Additionally, the parties have agreed that Cheng claims 158, 159, 170-172 and 225 should correspond to both Counts 4 and 5. We agree. Accordingly, the claim correspondence set forth in Final Judgment,

Paper No. 240 is modified to read as follows:

The parties' claims corresponding to Count 4 are:

Cheng, Application 08/463,960:	41, 45, 49, 54, 58, 62, 66, 74, 86, 98, 107, 113, 122, 134, 146, 156-159, 170-173, 175- 176, 178-181, 187, 193, 199, 202, 205, 211, 217, 223, 225
Belleau, U.S. Patent 5,532,246:	1-3 and 6-9
Belleau Application 09/585,431:	1-3, 6-9, 10, 12, 14

The parties' claims that do not correspond to Count 4 are:

Cheng, Application 08/463,960:	37-39, 43, 46-47, 51-52, 55-56, 59-60, 63- 64, 72, 75-78, 84, 87-90, 96, 99-102, 105, 108, 111, 114, 120, 123-126, 132, 135-138, 144, 147-150, and 152-155, 160-169, 174, 177, 182-186, 188-192, 194-198, 200-201, 203-204, 206-210, 212-216 and 218-222
Belleau, U.S. Patent 5,532,246:	4-5
Belleau Application 09/585,431:	4-5, 11, 13 and 15

The parties' claims corresponding to Count 5 are:

Cheng, Application 08/463,960:	37-39, 43, 46-47, 51-52, 55-56, 59-60, 63- 64, 72, 75-78, 84, 87-90, 96, 99-102, 105, 108, 111, 114, 120, 123-126, 132, 135-138, 144, 147-150, and 152-155, 158-172, 174, 177, 182-186, 188-192, 194-198, 200-201, 203-204, 206-210, 212-216, 218-222 and 225
Belleau, U.S. Patent 5,532,246:	1-2 and 4-9
Belleau Application 09/585,431:	1-2 and 4-15

The parties' claims that do not correspond to Count 5 are:

Cheng, Application 08/463,960:	41, 45, 49, 54, 58, 62, 66, 74, 86, 98, 107, 113, 122, 134, 146, 156-159, 173, 175-176, 178-181, 187, 193, 199, 202, 205, 211, 217 and 223.
Belleau, U.S. Patent 5,532,246:	3
Belleau Application 09/585,431:	3

ORDERED that the claim correspondence set forth in the Final Judgment, Paper No.

FURTHER ORDERED that Junior Party Cheng is not entitled to a patent containing claims 37-39, 41, 43, 45-47, 49, 51, 52, 54-56, 58-60, 62-64, 66, 72, 74-78, 84, 86-90, 96, 98-102, 105, 107, 108, 111, 113, 114, 120, 122-126, 132, 134-138, 144, 146-150 and 152-223 and 225 of Cheng's involved U.S. Application No. 08/463,960.

FURTHER ORDERED that if there is a settlement agreement, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 1.661.

MICHAEL P. TIERNEY
Administrative Patent Judge

BOARD OF PATENT
APPEALS
AND
INTERFERENCES

cc (via Facsimile):

Counsel for Belleau:

(real party in interest, BioChem Pharma, Inc., and
Tanaud International, V.B., licensors to Glaxo Welcome, Inc.)

Anthony J. Zelano, Esq.

John A. Sopp, Esq.

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.

Arlington Courthouse Plaza I

2200 Clarendon Boulevard

Suite 1400

Arlington, VA 22201

Tel: 703-812-5311 (Zelano)

Tel: 703-812-5315 (Sopp)

Fax: 703-243-6410

E-mail: zelano@mwzb.com

E-mail: sopp@mwzb.com

Counsel for Cheng

(real party in interest, Yale University)

Samuel B. Abrams, Esq.

MATTHEW E. LANGER, Esq.

PENNIE & EDMONDS LLP

1155 Avenue of the Americas

New York, NY 10036-2711

Tel: 212-790-9090

Tel: 212-790-6578 (Abrams)

Tel: 212-790-6428 (Langer)

Fax: 212-869-9741

Fax: 212-869-8864

E-mail: abramss@pennie.com

E-mail: langerm@pennie.com